

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

United States Courts
Southern District of Texas
FILED

January 27, 2020

In the Matter of the Seizure of)
 (Briefly describe the property to be seized))
 Funds up to \$1,715,977.74 on deposit in Bank)
 United account number ending in 5262)

Case No. **4:20mj0143**

David J. Bradley, Clerk of Court

APPLICATION FOR A WARRANT
TO SEIZE PROPERTY SUBJECT TO FORFEITURE

I, a federal law enforcement officer or attorney for the government, request a seizure warrant and state under penalty of perjury that I have reason to believe that the following property in the Southern District of Texas is subject to forfeiture to the United States of America under 18 U.S.C. § 981(a)(1)(C) (describe the property):
 and 984:

Funds up to \$1,715,977.74 on deposit in Bank United account number ending in 5262.

The application is based on these facts:

See attached affidavit setting out the factual basis for probable cause to believe that the money sought to be seized is subject to forfeiture as property which constitutes or is derived from proceeds traceable to wire fraud.

☒ Continued on the attached sheet.


 Applicant's signature

Michael T. Blackmon, USSS Special Agent
 Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone.

Date: _____

Judge's signature

City and state: Houston, Texas

Dena Hanovice Palermo, U.S. Magistrate Judge
 Printed name and title

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEIZURE WARRANT**

I, Michael T. Blackmon, being duly sworn, depose and state as follows:

I. Introduction and Agent Background

I make this affidavit in support of an application for a seizure warrant for up to \$1,715,977.74 on deposit in a bank account held at Bank United, as I submit that there is probable cause to believe that the account contains proceeds from a scheme to defraud, known as a “Business Email Compromise.”

I am a Special Agent with the Department of Homeland Security, United States Secret Service, and I have been so employed since September 2002. I am currently assigned to the Houston Area Fraud Task Force in the Houston Field Office since March 2019, and I have received training relevant to the subject areas addressed by the United States Secret Service. Specifically, I received training and instruction in federal criminal laws and fraud concerning financial institutions at the Federal Law Enforcement Training Center in Glynco, Georgia, and the James J. Rowley Training Center in Beltsville, MD.

I am authorized under Title 18, United States Code, Section 3056(b) to conduct criminal investigations concerning any of the laws of the United States relating to electronic fund transfer frauds, access device frauds, false identification documents or devices, and fraud or other criminal or unlawful activity in or against any federally insured financial institution. I am further authorized by 18 U.S.C. § 3056(c) to execute warrants issued under the laws of the United States and make arrests, based upon probable cause, for any felony cognizable under the laws of the United States.

The statements in this affidavit are based on my personal observations, my training and experience, information obtained from witnesses and other law enforcement officials, and review of records obtained during the course of investigation. Because this affidavit is being submitted

for the limited purpose of securing a seizure warrant, I have not included each and every fact known to me concerning this investigation.

II. Property to be Seized

This affidavit is made in support of an application to seize up to \$1,715,977.74 of the funds on deposit in the bank account with account number 9853165262 (“Account 5262”) at Bank United. I submit there is probable cause to believe this account holds proceeds from a scheme to defraud a victim company, Renewable Bio Fuels, located in Houston, Texas, into electronically transferring \$1,715,977.74 to the perpetrators based on false representations.

III. Applicable Statutes

Title 18, United States Code, Section 981(a)(1)(C) provides for the civil forfeiture of “[a]ny property, real or personal, which constitutes or is derived from proceeds traceable to . . . any offense constituting ‘specified unlawful activity’ (as defined in section 1956(c)(7) of this title).” A violation of 18 U.S.C. § 1343 (wire fraud) constitutes a “specified unlawful activity” under 18 U.S.C. § 1956(c)(7)(A), which incorporates 18 U.S.C. § 1961(1)(D).

With regard to the civil forfeiture of fungible property, Title 18, United States Code, Section 984 provides that funds deposited in an account in a financial institution that are found in the same account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture so long as the action is commenced within one year from the date of the offense. This section, when it applies, excuses the government from tracing the proceeds into the account. In other words, hypothetically, if \$100,000 in fraud proceeds were deposited into Account 1234 within the last twelve months, then the government may civilly forfeit an equivalent amount of \$100,000 in funds from Account 1234, even if it is not exactly the same money that was deposited.

Property subject to forfeiture may be seized pursuant to 18 U.S.C. § 981(b)(1).

IV. Background on Online Schemes

I know from my training and experience that common online schemes include Business Email Compromise (“BEC”) scams, advance payment scams, and romance scams. The business which lost money in this case appears to be the victim of a BEC in which a fraudster gains access to the business email account of an unwitting employee of a legitimate vendor company. The fraudulent email convinces the employee of the victim company to make a wire transfer of corporate funds to a fraudulent account that the employee believes is a legitimate account for a legitimate business transaction, such as paying an invoice to a vendor.

V. Investigation of Fraudulent Scheme

The Chief Financial Officer of Renewable Bio Fuels telephonically contacted the United States Secret Service on January 17, 2020, to report their company was a victim of a BEC. I submit that there is probable cause to believe that the victim company was tricked into wiring \$1,715,977.74 USD to a bank account in the United States controlled by the fraudster and/or associates, rather than to the company that Renewable Bio Fuels intended to pay.

Renewable Bio Fuels on January 2, 2020, received an email it thought was from business partner, SMW Projects, INC., but was actually from a fraudulent email address. It appears that the legitimate email address of an employee working at SMW Projects, INC., was compromised. On January 6, 2020, Renewable Bio Fuels received a follow-up fraudulent email and instructions, supposedly from SMW Projects, INC. Information for a new bank account, Bank United Account 5262, was given to Renewable Bio Fuels via the compromised email address.

On January 7, 2020, Renewable Bio Fuels wired \$1,459,594.27 to Account 5262 as instructed by the fraudulent email, believing it was paying its business partner, SMW Projects. On

January 15, 2020, Renewable Bio Fuels wired an additional \$256,383.47 to Account 5262 as instructed by the fraudulent email. Renewable Bio Fuels was alerted to the fraud on or about January 16, 2020, when notified by its bank. SMW Projects, INC. confirmed that it did NOT send the emails to Renewable Bio Fuels or change its bank account information.

On January 17, 2020, the affiant contacted Bank United's Corporate Fraud Division concerning the wire transfers. Bank United advised that on January 7 & 15, 2020, Account 5262 in Miami Lakes, Florida, received two (2) wire transfers in the amounts of \$1,459,594.27 and \$256,383.47 from victim Renewable Bio Fuels. Funds have been withdrawn since the wires were received, but it is believed that there are still funds on deposit.

VI. Conclusion

I submit that probable cause exists to believe that victim company Renewable Bio Fuels electronically transferred a total of \$1,715,977.74 to Bank United Account 5262 within the last twelve months as a result of a scheme to defraud. By application of Section 984, up to \$1,715,977.74 from Account 5262 is subject to seizure. Based upon the information outlined above, I submit that there is probable cause to believe that up to \$1,715,977.74 of the funds on deposit in Account 5262 constitute or are traceable to wire fraud and are therefore subject to forfeiture under 18 U.S.C. §§ 981(a)(1)(C) and 984, and seizure pursuant to 18 U.S.C. § 981(b)(2).



Michael T. Blackmon
Senior Special Agent
U.S. Secret Service

Sworn by telephone on January ____, 2020, and I find probable cause.

Dena Hanovice Palermo
United States Magistrate Judge